Decision **PROPOSED DECISION OF ALJ ROSCOW** (Mailed 9/13/2013)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U39E) for Review of Entries to the Energy Resource Recovery Account (ERRA) and Renewables Portfolio Standard Cost Memorandum Account (RPSMA), and Compliance Review of Fuel Procurement for Utility Retained Generation, Administration of Power Purchase Contracts, and Least Cost Dispatch of Electric Generation Resources for the Record Period of January 1, through December 31, 2010 and for Adoption of Electric Revenue Requirements and Rates Associated with the Market Redesign and Technology Upgrade (MRTU) Initiative.	Application 11-02-011 (Filed February 15, 2011)

DECISION ON COMPLIANCE REVIEW OF PACIFIC GAS AND ELECTRIC COMPANY PROCUREMENT ACTIVITIES AND ENTRIES TO THE ENERGY RESOURCE RECOVERY ACCOUNT AND RENEWABLES PORTFOLIO STANDARD COST MEMORANDUM ACCOUNT FOR THE RECORD PERIOD OF JANUARY 1, THROUGH DECEMBER 31, 2010

TABLE OF CONTENTS

Title **Page**

TABLE OF CONTENTS
(Cont'd)

Title Page

DECISION ON COMPLIANCE REVIEW OF PACIFIC GAS AND ELECTRIC COMPANY PROCUREMENT ACTIVITIES AND ENTRIES TO THE ENERGY RESOURCE RECOVERY ACCOUNT AND RENEWABLES PORTFOLIO STANDARD COST MEMORANDUM ACCOUNT FOR THE RECORD PERIOD OF JANUARY 1, THROUGH DECEMBER 31, 2010

1. Summary

This decision addresses compliance, verification and reasonableness issues related to Pacific Gas and Electric Company's (PG&E) Energy Resource Recovery Account (ERRA) for the Record Period January 1, through December 31, 2010. This decision finds that PG&E's utility retained generation fuel procurement, administration of power purchase agreements, and—in the absence of any showing to the contrary—least-cost dispatch activities for the period beginning January 1, 2010 and ending December 31, 2010 complied with PG&E's Long-Term Procurement Plan. We also find PG&E's procurement-related revenue and expenses recorded during the record period in its ERRA balancing account and its Renewables Portfolio Standard Cost Memorandum Account to be reasonable and prudent. The Commission's Energy Division is directed to facilitate a workshop where PG&E and other interested parties shall develop proposed criteria that should be used to determine what constitutes least-cost dispatch compliance, and the resulting methodology PG&E should follow to assemble a showing to meet its burden to prove such compliance for use during the 2014 record period and subsequent inclusion in PG&E's ERRA compliance application in 2015. This proceeding shall remain open to consider PG&E's report on that workshop.

2. Procedural History

Public Utilities (Pub. Util.) Code § 454.5(d)(2) provides for a procurement plan that would accomplish, among others, the following objective:

> Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract, and contract disputes that may arise are reasonably resolved.

In Decision (D.) 02-10-062, the Commission implemented Section 454.5(d) by establishing Energy Resource Recovery Account (ERRA) balancing accounts for Pacific Gas and Electric Company (PG&E) and other utilities, requiring them to track fuel and purchased power revenues against actual recorded costs and to establish an annual ERRA compliance review for the previous year and an annual ERRA fuel and purchased power revenue requirement for the following year. The most recent Commission decision on a PG&E ERRA compliance application was D.11-070-39, for 2009.

In D.07-12-052, the Commission approved with modifications PG&E's Long-Term Procurement Plan (LTPP) for 2007 through 2016. Resolution E-4177, effective June 26, 2008, approved PG&E's conformed 2006 LTPP, which was the basis for PG&E's 2010 compliance activities.

On February 15, 2011, PG&E filed Application (A.) 11-02-011 for review of entries to its ERRA and its Renewables Portfolio Standard Cost Memorandum Account (RPSCMA) and compliance review of fuel procurement for utility retained generation (URG), administration of power purchase contracts, and least- cost dispatch (LCD) of electric generation resources for the record period of January 1, through December 31, 2010 (record period). PG&E served prepared testimony with its application.

A prehearing conference was held on April 7, 2011. The Scoping Memo was issued on August 16, 2011. The Scoping Memo identified five issues for this proceeding:[1]

1. Whether PG&E administers and manages its own generation facilities prudently;
2. Whether PG&E administered and managed its qualifying facilities (QF) and non-QF contracts in accordance with the contract provisions and otherwise followed Commission guidelines relating to those contracts;
3. Whether PG&E achieved LCD of its energy resources;
4. Whether the entries in the ERRA for 2010 are reasonable; and
5. Whether the entries in the RPSCMA are reasonable.

The Commission's Office of Ratepayer Advocates (ORA)[2] served testimony on August 22, 2011. PG&E served Rebuttal Testimony on September 19, 2011. ORA requested, and the assigned Administrative Law Judge (ALJ) agreed, that ORA could submit surrebuttal testimony on the LCD issue on November 29, 2011. PG&E served its Reply to ORA's Surrebuttal Testimony on January 10, 2012. Evidentiary hearings took place on February 28 and February 29, 2012.

PG&E provided a public version of its prepared testimony (Exhibit PG&E-1) and a confidential (unredacted) version (Exhibit PG&E-1-C) submitted under Pub. Util. Code §§ 454.5(g) and 583. ORA also provided a public

[1] Pursuant to a June 23, 2011 joint Administrative Law Judge ruling, and as indicated in the August 16, 2011 Scoping and Ruling of Assigned Commissioner, the Market Redesign and Technology Upgrade cost recovery issues originally included in PG&E's application were removed from this proceeding.

[2] The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

(redacted) version of its prepared testimony (Exhibit DRA-1) and a confidential (unredacted) version (Exhibit DRA-1-C). The public and confidential versions of PG&E's Rebuttal Testimony are Exhibits PG&E-3 and PG&E-3-C, respectively. The public and confidential versions of ORA's Surrebuttal Testimony are Exhibits DRA-2 and DRA-2-C, respectively. PG&E's Reply to ORA's Surrebuttal Testimony is Exhibit PG&E-4. Exhibits PG&E-1-C and PG&E-3-C and DRA-1-C and DRA-2-C, the confidential testimony, shall be filed under seal and remain sealed for a period of three years from the effective date of this decision.

On April 30, 2012, in response to a request from the assigned ALJ, PG&E provided a Compact Disc (CD) containing PG&E's Master Data Request responses as well as responses to certain additional ORA data requests. PG&E later served a public version of the same information. PG&E requested that the contents of the CD be received into evidence in this proceeding. PG&E's public and confidential responses are marked as Exhibit PG&E-12 and Exhibit PG&E-12-C, respectively, and received into evidence.

On April 15, 2013, the assigned ALJ issued a Ruling Setting Aside Submission and Requesting Additional Information. The ruling sought the exact dollar amount that is equal to two times PG&E's administrative expenses for all procurement functions in 2010. PG&E provided this information on May 15, 2013. PG&E's response is marked as Exhibit PG&E-13 and received into evidence. This proceeding was submitted for a decision by the Commission as of August 26, 2013, the date PG&E filed a motion for leave to file under seal certain confidential material associated with its May 15, 2013 filing.

3. Positions of the Parties

3.1. PG&E's Application and Testimony

PG&E requests that the Commission find as follows:[3]

1. That in 2010 PG&E complied with its Conformed 2006 LTPP in the areas of fuel procurement for URG, administration of power purchase contracts, and LCD of electric generation resources;
2. That in 2010 PG&E made appropriate entries to its ERRA; and
3. That PG&E complied with the recovery requirements of the RPSCMA adopted by the Commission, and that PG&E may recover the RPSCMA balance in this ERRA Compliance proceeding.

3.2. ORA

ORA was the only active party in this proceeding. ORA summarizes its logic and its resulting recommendations in its Opening Brief:[4]

> PG&E failed to make an affirmative showing to demonstrate whether it achieved least-cost dispatch of its energy resources in the 2010 Record Period. PG&E did present evidence of its plan but failed to fully demonstrate how that plan resulted in the achievement of least-cost dispatch.
>
> PG&E bears the burden of proving compliance with Commission requirements, and in this case PG&E failed to produce evidence that would demonstrate that the utility in fact achieved least-cost dispatch of its energy resources.
>
> PG&E's inefficient dispatch of [utility-owned generation] UOG generally, and Helms Pumped Storage (Helms) in particular, during the 2010 Record Period resulted in PG&E not achieving least-cost dispatch.

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[3] PG&E Application at 13.

[4] DRA Opening Brief at 2-3; citation to Reporter's Transcript (RT), volume 1, at 12 omitted.

ORA recommends that the Commission disallow $37 million based on PG&E's inefficient dispatch of its total UOG, calculated collectively. Alternatively, ORA recommends a $21.1 million disallowance for PG&E's inefficient dispatch of Helms, calculated separately.

4. Discussion

In the following sections, we address the requests made in PG&E's application and testimony as well as the issues raised by ORA.

4.1. Least-Cost Dispatch

4.1.1. PG&E testimony

In Chapter 2 of Exhibit PG&E-1, PG&E describes the LCD practices and procedures that it employed to meet its customers' electric requirements in a cost effective and reliable manner during the January 1, through December 31, 2010 record period. PG&E asserts that it complied with the Commission's Standard of Conduct 4 (SOC 4), which mandates that PG&E dispatch its portfolio of existing resources, allocated California Department of Water Resources (CDWR) contracts, and market purchases to meet its electric load obligations during the record period in a least-cost manner. PG&E also asserts that it complied with D.04-07-028 in which the Commission ordered that system reliability and deliverability of power should be included as part of LCD.

The 2010 record period encompassed the first full calendar year since the California Independent System Operator (CAISO) implemented its Market Redesign and Technology Upgrade (MRTU) reforms and began to operate its day ahead, hour ahead, and real-time markets according to the new market structure. PG&E provides an overview of MRTU as it pertains to least cost dispatch:

MRTU can be characterized as four primary initiatives.

- First is the introduction of new centralized day-ahead and revised hour-ahead and real time markets (RTMs).
- Second is the elimination of the requirement that Schedule Coordinators (SCs) individually submit balanced schedules (load plus sales balanced with generation plus purchases) in the day-ahead and hour-ahead processes.
- Third, the number of scheduling points changed from three zones and a handful of interconnection points to other adjacent electrical balancing area systems in the West to approximately 3,000 individual nodes.
- Fourth, the financial settlement of all day-ahead and hour-ahead/real-time schedules uses locational marginal prices.

Each of these initiatives allows the CAISO to better integrate operation of the electrical grid with its markets, thereby allowing for price transparency throughout the system. The day-ahead market, called the Integrated Forward Market (IFM), integrates the energy and ancillary services markets with transmission congestion and loss management. Incorporating thousands of nodes in its markets allows the CAISO to incorporate a Full Network Model of its transmission grid to more accurately reflect individual equipment and operational limits of the CAISO grid and the costs associated with ensuring that these limits are not exceeded. Prior to MRTU, limits could only be enforced between the three zones and at interconnection points to other adjacent electrical systems in the West. The elimination of the requirement that SCs submit balanced schedules to the CAISO allows the CAISO to optimize resources in the IFM and hour-ahead/RTM at the CAISO level rather than at an individual SC level, improving economic outcomes. Prior to MRTU, limited CAISO-level

optimization occurred only for day ahead ancillary services and in the real-time imbalance market.[5]

PG&E states that the MRTU day ahead, hour ahead, and real-time market reforms and new market elements have not significantly altered PG&E's least cost dispatch process or its results.[6] According to PG&E, it has fully complied with the Commission decisions addressing LCD practices during the entire record period. PG&E did so by: (1) following the principles described in its testimony; and (2) providing ORA with detailed information that is the subject of this proceeding. PG&E requests that the Commission find that:

- PG&E administered all contracts, generation resources, demand reduction programs, and dispatched energy in a least-cost manner.
- PG&E's economic dispatch during the record period is consistent with the Commission's direction, and made no distinction between its own resources, contracted resources, market transactions (both purchases and sales), and allocated CDWR contracts in its dispatch decisions.
- All resources were dispatched/bid based on their incremental costs, recognizing all operating constraints and all regulatory, environmental, financial, and legal obligations.
- PG&E's procurement and scheduling procedures enhance system reliability and deliverability as evidenced by: (1) the Energy Division's approval of Advice 2554-E and affirmed by the CAISO's latest operating procedures; and (2) implementation of Market Redesign and Technology Upgrade (MRTU) consistent with CAISO requirements.

[5] Exhibit PG&E-1 at 2-2.

[6] *Ibid.*

4.1.2. ORA

ORA asserts PG&E failed to dispatch its energy resources in a least-cost manner in the 2010 Record Period. According to ORA, PG&E's failure to achieve LCD is demonstrated by (1) its inefficient underutilization of UOG due to a preference for bidding its generation instead of self-scheduling as a price taker, and (2) its inefficient underutilization of Helms in particular, which resulted in both lost revenue opportunities and higher cost purchases the utility could have avoided.

ORA recommends that the Commission adopt one of the following disallowances from PG&E's ERRA Balancing Account:

(1) $37 million disallowance for inefficient dispatch of PG&E's total UOG, calculated collectively;

or, alternatively,

(2) $21.1 million disallowance for inefficient dispatch of Helms Pumped Storage, calculated separately.

ORA's analysis involves examining PG&E's records and comparing that data to metrics that, ORA argues, represent best practices. Where PG&E appears to fall short of these metrics, ORA recommends and calculates a disallowance.

First, ORA criticizes PG&E because it self-scheduled "a mere" 32% of its day-ahead load forecast in the 2010 Record Period:[7]

> PG&E's failure to achieve the Commission's least-cost dispatch mandate is demonstrated in part by PG&E's underutilization of its UOG due to a preference for bidding that generation versus self-scheduling as a price taker. PG&E unduly preferred higher-cost real-time market purchases versus relying on its own lower-cost resources, exposing ratepayers to real-time market volatility.

[7] DRA Opening Brief at 17-18.

In Exhibit DRA-1 and DRA-2, DRA expands its analysis and uses it to support its first recommended disallowance, $37 million.

Second, ORA also criticizes PG&E for its operation of the Helms pumped storage facility; based on that analysis, ORA recommends an alternative disallowance of $21 million:

> PG&E's lack of least-cost dispatch is clearly demonstrated by the utility's inefficient dispatch of Helms; underutilization that exposed ratepayers to unnecessary risk and expense in the volatile real-time markets including purchase of peak power, imbalance energy charges, and bid cost recovery. As detailed in DRA's Report and discussed below, PG&E's underutilization of Helms is most clearly demonstrated by the fact that PG&E ran Helms at a capacity factor of ***less than 8%*** for the 2010 Record Period. [8]

ORA also states that PG&E's "signage errors" on its quarterly sales transactions reports to Federal Energy Regulatory Commission (FERC) and signage errors on Helms meter data in this proceeding require reconciliation and verification as to whether pending corrections will impact PG&E's ERRA Balancing Account for the Record Period.[9]

4.1.3. PG&E's Response to ORA

According to PG&E, the Commission should reject ORA's disallowance requests because they are based on the faulty premise that capacity factors for dispatchable plants are indicative of LCD. PG&E states that capacity factors have no bearing on LCD and increased self-scheduling of UOG resources would

[8] *Id*. at 46.

[9] DRA Opening Brief at 9.

increase, rather than decrease, customer costs and would therefore be directly contrary to LCD principles.[10]

Regarding the adequacy of its showing and the question of whether it has met its burden of proof, PG&E asserts that the Commission has consistently approved PG&E's method of demonstrating compliance with LCD:

> PG&E's 2010 showing of compliance with least-cost dispatch (LCD) principles is essentially the same LCD showing PG&E presented for the 2009 record period (which was approved by the Commission). Moreover, PG&E (as well as other California investor-owned utilities ('IOUs")) have for all prior ERRA compliance periods and proceedings typically submitted information concerning their bidding strategies and processes to demonstrate that their "scheduling and bidding processes and actions enabled the CAISO to dispatch [ ] resources in an economic manner throughout the Record Period." DRA has not previously opposed this type of LCD demonstration (i.e., based on strategies and processes) and the Commission has repeatedly concluded that this type of information is sufficient to demonstrate compliance with the Commission's LCD requirements and satisfy PG&E's burden of proof.

Finally, PG&E disagrees with ORA's assertion that PG&E has failed to meet its burden of proof "by not providing evidence, after the fact, that least-cost dispatch was achieved in every hour of every day of the Record Period." We quote PG&E's argument in its entirety below, because it provides important context for the direction we provide, later in this decision, regarding the showing we will require from PG&E in future ERRA compliance proceedings:

> This eleventh hour claim, coming up for the first time in DRA's Opening Brief, improperly seeks to impose an unprecedented burden to prove that least-cost dispatch was achieved for each of

[10] PG&E Reply Brief at 1-2.

> the 8,760 hours of the 2010 Record Period. What is worse, DRA then urges a ***retroactive*** imposition of its recommended disallowances based on this new standard of review.
>
> DRA's recommended disallowances are fundamentally unfair, as they seek to punish PG&E for actions taken in good faith based on Commission rules and policies that were in place during the 2010 Record Period. [footnote: As PG&E noted in its Opening Brief at pp. 11-12, the Commission has consistently approved PG&E's method of demonstrating compliance with least-cost dispatch.]
>
> DRA's attempt to retroactively disallow amounts associated with PG&E's least-cost dispatch activities based on a new standard of review proposed after-the-fact is unreasonable and should be rejected.
>
> But equally as important, DRA's recommended disallowances for 2010 are based on rules for demonstrating least-cost dispatch that were not in place for the Record Period (and are not in place now) and that cannot be imposed after PG&E has acted in accordance with the procedures the Commission has established.
>
> As is described more fully below, PG&E provided more than sufficient information about its least-cost dispatch practices to demonstrate, by a preponderance of the evidence, that it complied with its Commission-approved 2006 conformed long-term procurement plan ("LTPP") and that it met Standard of Conduct No. 4. DRA's retroactive disallowance claims based on a new standard of review applied after-the-fact should be rejected.

Finally, regarding the Electronic Quarterly Reports (EQR) issue identified by ORA, PG&E states in its reply brief that:

> PG&E can confirm that it will shortly complete the refile of its 2009 and 2010 EQR data with the Federal Energy Regulatory Commission ("FERC") and can meet with DRA, at DRA's convenience, to review the data and provide DRA the confirmation it requests.

> Additionally, PG&E would like to clarify that the sales transaction amounts reported to the FERC in the EQR are, and have always been, based on invoiced amounts from the CAISO for certain charge codes, as recorded to ERRA. Therefore, by definition, the EQR will always reconcile to ERRA. Further, the amounts reported in the refile of PG&E's 2009 EQR data with FERC will reconcile to PG&E's 2009 ERRA and not to 2010 ERRA Record Period data.[11]

4.1.4. Discussion

The question of whether PG&E dispatched its resources in a least-cost manner in compliance with SOC 4 is not a trivial matter. In 2010, PG&E collected approximately $3.7 billion in revenues from its bundled service customers in payment for power procured on their behalf.[12] This Commission, as well as ORA, has every reason to look closely at PG&E's actions because PG&E's efforts to "get it right," even if only slightly unsuccessful, could increase customer costs by millions of dollars. Therefore, when PG&E, in its application, asks the Commission to find that in 2010 "PG&E complied with its Conformed 2006 Long-Term Procurement Plan in the area of least cost dispatch of electric generation resources" PG&E should expect that we will closely examine that request.

As we explain in detail below, we have examined PG&E's showing and considered ORA's analysis and its recommendations for a disallowance. While we commend ORA for its effort, we are not convinced that its analysis is accurate and therefore cannot accept its recommendations. However, ORA's showing has caused us to look closely at PG&E's showing, and we find many aspects of that

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[11] PG&E Reply Brief at 18-19.

[12] Exhibit PG&E-1, Table 10-2.

showing to be below our expectations, as we described those expectations in prior decisions. Nevertheless, we cannot find—based on the history of prior ERRA proceedings as well as the record in this proceeding—that PG&E's actions during the 2010 record period merit any penalty or disallowance. In short, PG&E followed past procedures that, however incomplete they may appear upon close review, were developed in concert with ORA and produced results and compliance showings that were subsequently accepted by this Commission when it approved PG&E's applications in prior ERRA compliance reviews. ORA's efforts regarding the 2010 record period led to extensive litigation on the question of LCD that exposed the weaknesses in PG&E's showing, but that showing was assembled by PG&E in the context of prior Commission decisions addressing prior record periods, which approved PG&E's showing in every instance. Now, as a result of the more extensive testimony in this proceeding, we can clearly see the inadequacies in the approach taken by PG&E to demonstrate compliance with our least cost dispatch standard. Therefore, we take steps in this decision to ameliorate these shortcomings and provide specific direction to PG&E to improve its showings in the future.

To illustrate our concerns, we begin with a review of the ERRA compliance process. In adopting the regulatory framework under which PG&E, Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) would resume full procurement responsibilities on January 1, 2003, D.02-10-062 ordered that the utilities comply with minimum standards of conduct, including SOC 4, which states:

> The utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost

> manner. Our definitions of prudent contract administration and least cost dispatch are the same as our existing standard.[13]

In elaborating on SOC 4, we stated that,

> Prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs.
>
> Least-cost dispatch refers to a situation in which the most cost-effective mix of total resources is used, thereby minimizing the cost of delivering electric services….The utility bears the burden of proving compliance with the standard set forth in its plan.[14]

Once we established and clarified SOC 4 in D.02-10-062 and D.02-12-074, we implemented the ERRA compliance review process in a series of decisions addressing applications filed by each utility. Our decision on SCE's first compliance review application, D.05-01-054 in A.03-10-022, provided extensive guidance to the utilities and other parties:[15]

> Therefore, in the compliance review there are no ranges of possible outcomes. The outcome or standard for review has been predetermined -- that is the lowest cost. SCE must demonstrate that it has complied with this standard, by providing sufficient information and/or analysis in order for the Commission to

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[13] D.02-10-062, Conclusion of Law 11.

[14] D.02-12-074, Ordering Paragraph 24b, emphasis added. The ellipsis indicates language deleted by D.03-06-076, p. 27 and Ordering Paragraph 16.

[15] D.05-04-036 in A.03-08-004 found and concluded that the same scope of review of least cost dispatch that was adopted in A.03-10-022 for SCE should also apply to PG&E's ERRA proceeding. See D.05-04-036 Finding of Fact and Conclusion of Law 4.

> verify that SCE's dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services. Based on analyses of SCE's showing and subsequent discovery, ORA or any other party may take the position that SCE did not fully comply with SOC 4. In such cases, we will judge the merits of the parties' positions and may impose disallowances and/or penalties, up to the maximum penalty cap.[16]

If the text quoted above fully captured the guidance provided by the Commission regarding LCD, we could find that PG&E's showing for the 2010 record period was inadequate. PG&E's showing in the Application before us establishes only that PG&E attempted to achieve LCD; PG&E has not documented that "the most cost-effective mix of total resources [was] used, thereby minimizing the cost of delivering electric services." This is inadequate, given our discussion in D.05-01-054, quoted above. During hearings, PG&E's witness on LCD could not verify that PG&E has made the showing described in D.05-01-054. There is no material in either PG&E's testimony or workpapers that actually demonstrates compliance with the least cost dispatch standard by PG&E in 2010.[17]

In post-hearing briefs, PG&E defends its showing by stating "the Commission has consistently approved PG&E's method of demonstrating compliance with least-cost dispatch." As we explain below, this statement is not entirely correct, but it is accurate enough to support our conclusion that we must provide better guidance to PG&E and other interested parties on a going forward

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[16] D.05-01-054 at 14, emphasis added. For the 2010 record period, the maximum penalty cap for PG&E is $93.2 million. See late-filed Exhibit PG&E-13.

[17] See RT at 11-24.

basis, so that PG&E's showing in future compliance cases provides us with a record that—as we directed in D.05-01-054 and affirmed in D.05-04-036—is adequate "for the Commission to verify that [the utility's] dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services."

Regarding the question of whether the Commission has consistently approved PG&E's method of demonstrating compliance with LCD, we find that each of the three citations provided by PG&E in support of its argument are, upon examination, off the mark.

First, PG&E states that "PG&E's 2010 showing of compliance with least-cost dispatch (LCD) principles is essentially the same LCD showing PG&E presented for the 2009 record period (which was approved by the Commission). PG&E cites "D.11-07-039 at p. 11 (addressing LCD)" in support of that statement. The cited material states, in its entirety,

> PG&E described the least cost dispatch practices employed by PG&E to meet its customers' electric requirements in a cost effective and reliable manner during 2009. PG&E complied with Commission Standard of Conduct 4, which mandates that PG&E dispatch its portfolio of existing resources, allocated CDWR contracts, and purchases to meet its 2009 electric load obligations in a least cost manner. DRA's Master Data Request included numerous questions on least cost dispatch after which DRA propounded additional discovery requests. DRA did not recommend any disallowance.

While D.11-07-039 speaks for itself, we note that ORA did not recommend any disallowance for the 2009 record period, so we did not have occasion to examine PG&E's 2009 activities in the detail we have applied for 2010. Furthermore, given our explanation above regarding the weaknesses in PG&E's showing in the instant application, the fact that "PG&E's 2010 showing of

compliance with least-cost dispatch (LCD) principles is essentially the same LCD showing PG&E presented for the 2009 record period" is neither convincing nor reassuring with regard to whether it is adequate.

Second, PG&E states, "Moreover, PG&E (as well as other California investor-owned utilities) have for all prior ERRA compliance periods and proceedings typically submitted information concerning their bidding strategies and processes to demonstrate that their "scheduling and bidding processes and actions enabled the CAISO to dispatch [ ] resources in an economic manner throughout the Record Period" and cites D.11-10-002 at pp. 6-7. PG&E adds, in a footnote, "PG&E's execution of LCD during pre-MRTU years was consistent in principle with PG&E's execution of LCD during the Record Period. However, with the advent of MRTU, certain market procedures necessarily differ (e.g., the CAISO market, not PG&E determines the actual daily dispatchable resource mix, based on the bids PG&E submits)."

Turning to the material cited by PG&E, D.11-10-002, in SCE's 2009 ERRA compliance proceeding, states at 6-7:

> SCE submits that the record shows that its scheduling and bidding processes and actions enabled the CAISO to dispatch SCE's dispatchable resources in an economic manner throughout the Record Period. SCE claims that it consistently followed prudent procurement processes and practices in order to satisfy SOC 4.
>
> DRA does not indicate that it takes issue with SCE's least-cost dispatch record in this proceeding.
>
> Based on the testimony of SCE and our review of the record, we conclude that all dispatch-related activities SCE performed during the Record Period complied with Commission orders and SCE's procurement plan.

Finally, PG&E cites this same material to support the third sentence in its argument: "ORA has not previously opposed this type of LCD demonstration (i.e., based on strategies and processes) and the Commission has repeatedly concluded that this type of information is sufficient to demonstrate compliance with the Commission's LCD requirements and satisfy PG&E's burden of proof."

PG&E's statement that "the Commission has repeatedly concluded that this type of information is sufficient to demonstrate compliance with the Commission's LCD requirements and satisfy PG&E's burden of proof" is incorrect. The Commission has never made an affirmative finding that an LCD demonstration based on strategies and processes is sufficient to demonstrate compliance with the Commission's LCD requirements and satisfy PG&E's burden of proof. Rather, the Commission, in previous ERRA compliance decisions, has either accepted and agreed with ORA's position in those instances where no disallowance was recommended, or rejected the metric-based analyses submitted by ORA in support of a disallowance. Although the question of what showing was required to demonstrate success in achieving LCD was raised in early ERRA compliance decisions, it was never resolved. It is for this reason that we do not levy either a disallowance or penalty on PG&E in this proceeding. In short, PG&E has not made a complete showing of success, but ORA has not made a convincing, fact-based showing that a specific disallowance is warranted.

To explain why we will not penalize PG&E for its incomplete showing regarding whether it achieved LCD during the 2010 record period, we must review the procedural history of ERRA compliance proceedings that followed our first decisions in A.03-10-022 and A.03-08-004. From our vantage point today in 2013, we find that those annual proceedings unfolded with a disappointing lack of adherence to the guidance we provided in D.05-01-054 and D.05-04-036.

The compliance review process appears to have foundered on this statement from D.05-01-054:

> In this decision we have defined the scope of least-cost dispatch review and have indicated the utilities' responsibility for proving compliance with the least-cost dispatch standard. However, at this time, the Commission has not specified criteria that should be used to determine what constitutes least-cost dispatch compliance or what the utility needs to provide to meet its burden to prove such compliance. If there is a need for such criteria, it should be developed in a generic proceeding where all affected utilities, as well as interested parties, could participate. In the meantime, SCE and ORA should use a master data request process, as discussed later in this decision, as a means to reach some understanding on the types of information or analyses that would be useful in demonstrating SOC 4 compliance as it relates to least cost dispatch.
>
> Further, if ORA or another party can demonstrate that SCE has not dispatched resources in a least-cost manner, the Commission will review that evidence and make appropriate adjustments for non-compliance. [D.05-01-054 at 15-16.]

Again, from our vantage point today in 2013, it appears that in D.05-01-054, we provided clear direction regarding the required showing for LCD ("*Therefore, in the compliance review there are no ranges of possible outcomes. The outcome or standard for review has been predetermined -- that is the lowest cost")* only to undercut that guidance later in the same decision *("In this decision we have defined the scope of least-cost dispatch review and have indicated the utilities' responsibility for proving compliance with the least-cost dispatch standard. However, at this time, the Commission has not specified criteria that should be used to determine what constitutes least-cost dispatch compliance or what the utility needs to provide to meet its burden to prove such compliance").*

We created similar potential for confusion with our statements regarding burden of proof. First, we placed the burden on the utility ("*SCE must demonstrate that it has complied with this standard, by providing sufficient information and/or analysis in order for the Commission to verify that SCE's dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services")* only to again undercut that guidance later in the decision ("*Further, if ORA or another party can demonstrate that SCE has not dispatched resources in a least-cost manner, the Commission will review that evidence and make appropriate adjustments for non-compliance*").

We appear to have compounded this problem with our proposed solutions:

> If there is a need for such criteria, it should be developed in a generic proceeding where all affected utilities, as well as interested parties, could participate. In the meantime, SCE and ORA should use a master data request process, as discussed later in this decision, as a means to reach some understanding on the types of information or analyses that would be useful in demonstrating SOC 4 compliance as it relates to least cost dispatch.

The generic proceeding suggested above never took place, and, as we have seen in the instant application, the master data request process that has been used instead has deteriorated into multiple rounds of discovery followed by soured relations between ORA and utility staff.[18] Most troubling of all, our review of

[18] The second day of hearings in this proceeding was added at the request of PG&E, and devoted entirely to testimony considering whether PG&E had or had not complied with DRA's discovery requests, including the Master Data Request that was originally intended to smooth the discovery process "so that an efficient and timely review of the ERRA activities can occur." See D.05-04-036, Section VIII, "Master Data Request" and Conclusion of Law 9.

ERRA compliance proceedings since 2003, and the resulting decisions, indicates that the guidance quoted above succeeded mainly in providing the utilities an opportunity to shift the burden of proof onto ORA and, now, DRA. The utilities took advantage of that opportunity and, for reasons that are not clear to us, ORA accepted the burden.

PG&E's showing regarding LCD is primarily based on its responses to questions in the Master Data Request providing extensive information about the "highest, lowest and average energy load days" during the record period. This approach was developed in collaboration with ORA over the course of several ERRA compliance proceedings. We can see that this information may have some limited educational value. However, given our direction in D.05-01-054 and D.05-04-036 that the utility must provide "sufficient information and/or analysis in order for the Commission to verify that [the utility's] dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services," it is difficult to understand why any utility would think that three days of data would suffice, nor why ORA would agree to such an approach. Indeed, the LCD component of ERRA compliance proceedings has since devolved into annual exercises where, in the absence of any affirmative showing by the utilities that they did or did not achieve LCD, ORA either chose not to contest that aspect of the utility application, or devised various analytical approaches on its own in an attempt to evaluate the utility showing.[19] With

[19] See D.05-04-036, D.05-07-015, D.05-11-007, D.06-12-009, D.07-11-027, D.08-10-002, D.09-12-002, and D.11-07-039 in A.03-08-004, A.03-08-004, A.05-02-014, A.06-02-016, A.07-02-014, A.08-02-008, A.09-02-008, and A.10-02-012, respectively.

respect to PG&E, ORA has yet to sustain a case for a disallowance in the few years when it attempted to do so.

Regarding ORA's testimony on PG&E's LCD showing for 2010, as we summarized above, ORA has devised an analytical approach that involves positing a theoretical metric, then reviewing PG&E's actual results against that metric, finding those results lacking, and recommending a disallowance based on the gap between the metric and PG&E's actual results. ORA has taken this approach, of basing a disallowance calculation on metrics rather than direct evidence, in prior ERRA review cases, and we rejected the resulting recommendation.[20] While we reject ORA's approach again here, we commend ORA for its efforts, especially in the context of the challenging analytical exercise it agreed to take on. In sum, PG&E has not provided a showing of the extent to which it achieved LCD, a showing that logic suggests should have been provided with PG&E's application and testimony when it was initially filed in February 2011.

Even acknowledging some possible confusion due to the conflicting text quoted above from D.05-01-054, this outcome--where the burden of proof is shifted onto the party protesting the utility compliance applications--was clearly not what the Commission intended in either D.05-01-054 or D.05-04-036. Given the billions of dollars in revenues at stake, and the commensurate impact on customer bills, we are most disappointed that the utilities--which possess all the information needed to show whether or not they complied with SOC 4 -- did not act in better faith to develop and support a workable compliance review process.

[20] See, for example, D.05-02-006 in A.04-04-005 and D.06-01-007 in A.05-04-004. Both are ERRA compliance reviews for Southern California Edison.

The utilities also have the staffing necessary to develop this showing, because we have funded that staffing as part of their annual administrative expenses for all procurement functions. In 2010, that budget reached $46.575 million.[21] It is not clear whether any of these funds were directed by PG&E toward an effort to determine whether the $3.7 billion paid by PG&E's customers for their electricity in 2010 reflects PG&E's success in "minimizing the cost of delivering electric services" as we directed in D.05-01-054 and D.05-04-036.

4.1.4.1. Workshop on Least Cost Dispatch

In summary, although PG&E's least cost dispatch showing is consistent with its showing for previous record periods and we acknowledge that the Commission made no disallowances on previous PG&E least cost dispatch showings, we conclude that PG&E's own testimony in this record period demonstrates that its showing is not fully consistent with Commission direction regarding the showing necessary to demonstrate successful least cost dispatch. Faced with this discrepancy between our own past actions and the incomplete nature of PG&E's showing for this record period, we conclude that we should accept PG&E's least cost dispatch showing for the 2010 record period as adequate but clarify our expectations for future showings.

Based on the guidance we provided in our first decision on PG&E's ERRA compliance showing, a complete showing of least cost dispatch by PG&E should include precise numerical calculations that either demonstrate that PG&E achieved least cost dispatch during the record period, or quantify the amount of overspending by PG&E. We should leave this proceeding open and direct the

[21] Exhibit PG&E-12.

Commission's Energy Division to facilitate a workshop where PG&E and other interested parties can work together to develop proposed criteria that should be used to determine what constitutes least-cost dispatch compliance, and the resulting methodology PG&E should follow to assemble a showing to meet its burden to prove such compliance. Following the workshop, PG&E shall file and serve a report in this docket for our consideration. We intend to review the results in time to enable PG&E to implement the methodology to quantify the degree to which it achieved, or did not achieve, least cost dispatch during the 2014 record period and include that showing in its ERRA compliance application in 2015. If we find that PG&E has not worked collaboratively with other parties to develop the material we are requesting, we will conclude that PG&E has declined to make a showing of least cost dispatch, and consider imposing penalties for PG&E's non-compliance with Standard of Conduct 4, as we first contemplated in D.02-12-074. Therefore, this proceeding shall remain open for the purpose of reviewing PG&E's post-workshop report.

In conclusion, while we find in this decision that—in the absence of a showing to the contrary—PG&E's LCD activities complied with its Conformed 2006 LTPP, we caution PG&E to take seriously our concerns regarding the shortcomings of its showing on LCD. Our concern is that PG&E not only plan to "get it right" and minimize procurement costs for the benefit of its customers, but that it verify that its plans and intentions have succeeded, and that it take corrective actions if its efforts fall short. The most productive use of the annual ERRA compliance proceedings is to help PG&E, as well as SCE and SDG&E in their own proceedings, to identify best practices and areas for improvement when those opportunities exist. We will emphasize this in future proceedings,

while retaining the right and obligation to levy disallowances or penalties if warranted.

Finally, regarding the EQR issue identified by ORA and addressed by PG&E in its reply brief, we direct PG&E to confirm, in the next ERRA compliance application that it files after the date of this decision, that it has met with ORA and resolved this matter to ORA's satisfaction.

4.2. Procurement Activities

In Chapter 3 of Exhibit PG&E-1 "Procurement Activities" PG&E further describes the procurement activities it undertook to meet its customers' electric energy requirements in the context of LCD during record period. PG&E reiterates that, as described in Chapter 2, its testimony on LCD, in implementing its LTPP, PG&E fully integrates its generation and contract resources and demand-side programs with the CDWR allocated contracts when managing its electric supply portfolio. These aggregated resources are considered, along with market opportunities for energy purchases and sales, and active participation in the CAISO's MRTU markets in the LCD process. PG&E requests that the Commission find that PG&E's procurement activities were in compliance with its Conformed 2006 LTPP based on the following assertions:

- PG&E has used competitive energy markets whenever feasible.
- PG&E has engaged in transactions designed to reduce costs to ratepayers.
- PG&E has provided detail and justification for all transactions to the Commission in its Procurement Transaction Quarterly compliance advice letters.

4.2.1. Discussion

Due to the overlap in subject matter between PG&E's testimony on its procurement practices and its testimony on LCD, we will not repeat the long

discussion from the prior section of this decision. Based on our review of PG&E's testimony, we conclude that—in the absence of a showing the contrary— PG&E's procurement activities were in compliance with its Conformed 2006 LTPP.

4.3. CDWR Contract Administration

In Chapter 4 of Exhibit PG&E-1, PG&E reviews its contract administration activities for the CDWR contracts allocated to PG&E for the 2010 record period. The testimony discusses: (1) PG&E's responsibilities under the CDWR Operating Agreement; (2) PG&E's CDWR contract administration processes; and (3) significant activity for the January 1 through December 31, 2010 record period. PG&E requests that the Commission find PG&E's contract management and administration of its CDWR-allocated contracts during the record period prudent and in compliance with the terms of those contracts, the Operating Agreement, and SOC 4 of the Commission's Procurement Standards of Conduct.

ORA included its review of CDWR contract administration in Chapter 4 of Exhibit DRA-1. In that testimony, ORA's witness stated that ORA has no objection to PG&E's administration and management of its Non-QF contracts.

4.3.1. Discussion

Regarding contract management, SOC 4 states that the utilities shall prudently administer all contracts. In elaborating on SOC 4, we stated that "prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the

utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs."[22]

Based on our review of PG&E's testimony, we conclude that PG&E prudently managed and administered its CDWR-allocated contracts during the record period in compliance with the terms of those contracts, the Operating Agreement, and SOC 4 of the Commission's Procurement Standards of Conduct.

4.4. QF and Other Must Take Contract Administration

In Chapter 5 of Exhibit PG&E-1, PG&E requests that the Commission find PG&E's contract management and administration of its QF and other must-take power purchase agreements (PPAs) during the record period to have been in compliance with the terms of those PPAs, as well as with SOC 4 of the Commission's Procurement Standards of Conduct. PG&E also requests that the Commission approve the letter agreements and amendments identified in Chapter 5 for which PG&E seeks approval as part of this record period review.

ORA included its review of in PG&E's Qualifying Facility and Other Must Take Contract Administration in Chapter 5 of Exhibit DRA-1. In that testimony, ORA's witness stated that based on its evaluation, ORA does not object to PG&E's showing regarding how it exercised its contract management, compliance, and general administration of its QF PPAs and the associated QF-related costs it incurred.

4.4.1. Discussion

As we noted above, regarding contract management, SOC 4 states that the utilities shall prudently administer all contracts. In elaborating on SOC 4, we

[22] D.02-12-074, Ordering Paragraph 24b.

stated that "prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs."

Based on our review of PG&E's testimony, we conclude that PG&E prudently managed and administered its QF and other must-take PPAs during the record period. We also approve the letter agreements and amendments identified in Chapter 5 of Exhibit PG&E-1 for which PG&E seeks approval as part of this record period review.

4.5. Renewable Contract Administration

In Chapter 6 of Exhibit PG&E-1, PG&E reviews its contract administration activities for its renewable contracts for the January 1, to December 31, 2010, record period. The testimony discusses: (1) renewable contract management processes; and (2) changes in renewable contracts. PG&E requests that the Commission find PG&E's contract management and administration of its renewable contracts during the record period to have been prudent and in compliance with the terms of those contracts, as well as with SOC 4 of the Commission's Procurement Standards of Conduct.

ORA included its review of renewable contract administration in Chapter 4 of Exhibit DRA-1. In that testimony, ORA's witness stated that ORA has no objection to PG&E's administration and management of its renewable contracts.

4.5.1. Discussion

As we noted above, regarding contract management, SOC 4 states that the utilities shall prudently administer all contracts. In elaborating on SOC 4, we

stated that "prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs."

Based on our review of PG&E's testimony, we conclude that PG&E prudently managed and administered its renewable contracts during the record period.

4.6. Conventional Generation Contract Administration

In Chapter 7 of Exhibit PG&E-1, PG&E reviews its contract administration activities for its electric conventional generation contracts for the record period January 1, through December 31, 2010. PG&E's testimony discusses: (1) conventional contract administration; and (2) conventional contract activities during the record period. For purposes of this testimony, PG&E defines conventional generation contracts as those contracts freely entered into between PG&E and counterparties for energy and capacity products that do not qualify for Renewable Portfolio Standard (RPS) credits. PG&E requests the Commission find PG&E's contract management and administration of its conventional generation contracts during the record period to have been prudent and in compliance with the terms of those contracts, as well as with SOC 4 of the Commission's Procurement Standards of Conduct.

ORA included its review of conventional generation contract administration in Chapter 4 of Exhibit DRA-1. In that testimony, ORA's witness

stated that ORA has no objection to PG&E's administration and management of its renewable contracts.

4.6.1. Discussion

As we noted above, regarding contract management, SOC 4 states that the utilities shall prudently administer all contracts. In elaborating on SOC 4, we stated that "prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs."

Based on our review of PG&E's testimony, we conclude that PG&E prudently managed and administered its conventional generation contracts during the record period.

4.7. Demand Response Contract Administration

In Chapter 8 of Exhibit PG&E-1, PG&E reviews its contract administration activities for its Aggregator Managed Portfolio (AMP) Demand Response (DR) contracts for the 2010 record period. The testimony discusses DR contract management processes and changes in PG&E's portfolio of AMP DR contracts for the 2010 record period. PG&E requests the Commission find that PG&E's management and administration of its DR contracts during the record period complied with the terms of those agreements, as well as with SOC 4 of the Commission's procurement SOC.

ORA included its review of demand response contract administration in Chapter 4 of Exhibit DRA-1. In that testimony, ORA's witness stated that ORA

has no objection to PG&E's administration and management of its renewable contracts.

4.7.1. Discussion

As we noted above, regarding contract management, SOC 4 states that the utilities shall prudently administer all contracts. In elaborating on SOC 4, we stated that "prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs."

Based on our review of PG&E's testimony, we conclude that PG&E prudently managed and administered its demand response contracts during the record period.

4.8. Generation Fuel Costs

In Chapter 9 of Exhibit PG&E-1, PG&E reviews its actions regarding generation fuel procurement for:

- PG&E-owned thermal generation;
- CDWR contracts;
- Tolling agreements;
- Hydroelectric; and
- Diablo Canyon Power Plant (DCPP).

PG&E asserts that it engaged in these activities in a manner consistent with its Commission-approved procurement plan, Commission-approved PG&E Electricity and Gas Hedging Plans, Commission-approved CDWR Gas Supply Plans, and the Commission decisions addressing procurement. For these

reasons, PG&E concludes that the Commission should find PG&E's generation fuel costs in compliance with its approved procurement plan during the record period. PG&E requests that the Commission find that PG&E procured fuel for its retained generation facilities, managed the fuel supply provisions of the CDWR tolling agreements consistent with the Operating Agreement and/or applicable procurement plan, acquired water for hydroelectric generation and procured nuclear fuel for DCPP in compliance with its approved procurement plan and in compliance with prior Commission decisions.

In its testimony, ORA notes that PG&E's testimony addressed its fuel procurement operations, while providing no discussion of outages. ORA conducted extensive discovery regarding the 2010 Record Period outages and, based on analysis documents obtained through discovery, ORA does not recommend any specific disallowance for fuel cost recovery for individual outages. Accordingly, ORA does not oppose PG&E's request to recover its ERRA fuel procurement costs. ORA and PG&E have agreed that PG&E will include an affirmative showing of the reasonableness of its URG maintenance in next year's ERRA compliance application.

ORA makes the following recommendations in its written testimony:[23]

- DRA recommends that the Commission order PG&E to directly address its URG outages and associated fuel costs in PG&E's ERRA Compliance Application for the 2012 Record Period.
- DRA requests that the Commission order PG&E to complete, during the 2012 Record Period, a comprehensive, internal management audit of the Helms Pumped Storage facility. The audit should include an evaluation of the adequacy and effectiveness of internal monitoring and control of the facility,

[23] Exhibit DRA 1 at 1-1 to 1-2.

> with special emphasis on, among other things, operational planning, dispatch operations, preventive maintenance, outage planning, and outage mitigation. DRA requests that the Commission require PG&E to provide DRA a reasonable time, of no less than 30 days, to review and comment upon PG&E's draft audit plan, and give due consideration to any comments provided by DRA on that plan, before final approval of any such audit plan.

Following the conclusion of hearings, ORA provided updated recommendations in its opening brief:[24]

> After reviewing PG&E's responses to DRA's Data Requests, DRA does believe that PG&E generally intends to use an appropriately risk-based approach to develop its internal audit plan and identify individual audits that are to be performed. Further, DRA appreciates PG&E's willingness to comply with the stipulated agreement memorialized in D.11-07-039. DRA further appreciates PG&E's offer to give consideration to any comments DRA makes on PG&E's Internal Audit plan [footnote 169: Exhibit PG&E-3-C, p. 2-14] as well as PG&E's willingness to give due consideration to DRA's recommendation to audit UOG [utility owned generation], including Helms. [footnote 170: *Ibid*, p. 2-15.]

4.8.1. Discussion

Based on the material quoted above, we consider the matters raised in ORA's written testimony to be moot. We find that PG&E's generation fuel costs were in compliance with its approved procurement plan during the record period.

[24] DRA Opening Brief at 59.

4.9. ERRA and RPSCMA Entries for the Record Period

Chapter 10 of Exhibit PG&E-1-C presents the accounting entries made to PG&E's ERRA and to PG&E's RPSCMA for the January 1, through December 31, 2010 record period.

As described by PG&E, the purpose of the ERRA balancing account is to record the actual ERRA revenues and electric procurement costs for revenue recovery of those costs, pursuant to D.02-10-062 and D.02-12-074, as well as Pub. Util. Code § 454.5(d)(3). Costs recorded in the ERRA include the cost of utility-retained generation fuels, QF contracts, inter-utility contracts, CAISO charges, irrigation district contracts and other PPAs, bilateral contracts, forward hedges, pre-payments and collateral requirements associated with electric procurement and ancillary services, along with other authorized power procurement costs. Revenues from surplus power sales and Reliability-Must-Run revenues are also recorded in the ERRA to offset PG&E's power costs.[25]

The RPSCMA was established to track the third-party consultant costs incurred by the Commission and paid by PG&E in connection with the Commission's implementation and administration of the RPS as authorized in D.06-10-050. The Commission reviews and approves invoices it receives from its independent consultants and passes them on to PG&E for payment and recording in the RPSCMA. Ordering Paragraph 8 of D.06-10-050 authorizes PG&E to request recovery of these costs in rates through the ERRA application or other proceeding as authorized by the Commission. Thus, PG&E is requesting

[25] Exhibit PG&E-1 at 10-1.

approval to transfer the end of year 2010 balance from the RPSCMA to the ERRA for recovery.

PG&E states that it has complied with the Commission's directives and has appropriately recorded entries to the ERRA and RPSCMA. PG&E requests that, upon verification and review of the costs and revenues recorded to the ERRA, the Commission find that the ERRA entries presented in Table 10-2 of Exhibit PG&E-1-C for the record period are accurate and in compliance with Commission decisions. PG&E also requests that the Commission find that the accounting entries in RPSCMA presented in Table 10-1 of Exhibit PG&E-1-C are in compliance with the recovery requirements adopted by the Commission and that it authorize that the balance therein be recovered in ERRA, as part of PG&E's Annual Electric True-Up process.

ORA reviewed PG&E's ERRA Balancing Account for the Record Period. The objective of its review was to determine whether entries recorded in the account are appropriate, correctly stated, and in compliance with applicable Commission decisions D.02-10-062 and D.02-12-074. The ERRA accounting entries for January through December 2010 are summarized as follows (000's omitted):

Beginning Balance		$71,834
Revenues Net of FF&U	($3,690,327)	
Net Costs and Expenses	$3,501,952	
(Over)/Under Collection		($188,375)
Interest		($163)
Ending Balance		($116,704)

ORA's review did not note any items of a material nature requiring adjustments to PG&E's ERRA balancing account. ORA noted no exceptions to the recovery requirements adopted by the Commission. ORA noted no deficiencies in the internal audits reviewed by ORA.[26]

4.9.1. Discussion

Based on our review of the testimony of PG&E and ORA, we find that the ERRA entries presented in Table 10-2 of Exhibit PG&E-1-C for the record period are accurate and in compliance with Commission decisions. We also find that the accounting entries in the RPSCMA presented in Table 10-1 of Exhibit PG&E-1-C are in compliance with the recovery requirements adopted by the Commission, and we authorize recovery of the balance in the RPSCMA in ERRA as part of PG&E's Annual Electric True-Up process. The actual amount collected should be adjusted for any RPSCMA balances whose recovery was previously authorized in D.11-07-039, in PG&E's 2009 ERRA compliance proceeding.

5. Ruling Amending Scope, Setting Aside Submission and Requesting Additional Information

On April 15, 2013, the assigned ALJ issued a Ruling Setting Aside Submission and Requesting Additional Information. In that ruling, the ALJ noted that in this proceeding, parties devoted considerable energy in discovery, filed testimony, hearings, and briefs to the question of whether PG&E achieved LCD of its energy resources. As noted above, LCD is governed by SOC 4, which directs that the utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner. In D.02-12-074, the

[26] Exhibit DRA 1 at 1-3 to 1-4.

Commission addressed the issue of compliance with SOC 4 and set each utility's maximum disallowance risk equal to "two times their annual administrative expenses for all procurement functions, including those related to CDWR contract administration, utility-retained generation, renewables, QFs, demand-side resources, and any other procurement resources." The Commission determined that the exact dollar amount for the maximum potential disallowance will be based on each utility's procurement-related administrative expenses, as determined in each utility's general rate case. However, that value for the 2010 record period was not part of the record in this proceeding; therefore, submission of the proceeding was set aside and the record reopened for the purpose of receiving from PG&E the exact dollar amount that is equal to two times its 2010 administrative expenses for all procurement functions, including those related to CDWR contract administration, utility-retained generation, renewables, QFs, demand-side resources, and any other procurement resources.

PG&E provided this information on May 15, 2013. PG&E also filed a motion to submit additional evidence into the record; this additional material consisted of material from A.12-02-010, the proceeding addressing PG&E's ERRA compliance for the 2011 record period. On May 30, 2013 ORA filed a response to PG&E's motion. ORA requested that the Commission deny PG&E's motion.

According to PG&E, the additional evidence consists of an affidavit which discusses and compares PG&E's LCD protocols in 2010 with PG&E's LCD

protocols in 2011.[27] PG&E asserts that this additional information is directly relevant to the question of whether PG&E achieved LCD of its energy resources for the 2010 Record Period, which is the primary issue in dispute in this proceeding, and, as such, would aid the Commission in its preparation of a proposed decision.

ORA argues that PG&E's motion should be denied because the evidence submitted is irrelevant in the current proceeding; because ORA's 2011 testimony does not constitute a "material change of fact" in this proceeding; because it improperly expands the scope of the ALJ's ruling, which reopened the record for the limited purpose of receiving information regarding the disallowance cap; because PG&E had several opportunities to litigate the issue of LCD, and further litigation at this stage of the proceeding is unnecessary; and because the submission of evidence at this stage of the proceeding is untimely, will deprive ORA and other parties of their procedural due process right to review and respond to the evidence submitted, and will unduly delay decision of the application.

We agree with each of ORA's arguments. Most fundamentally, the Ruling had a sole limited purpose: to receive from PG&E the exact dollar amount that is equal to two times its 2010 administrative expenses for all procurement functions. None of the material attached to PG&E's motion is responsive to this request. For this reason, PG&E's motion to submit additional evidence into the record is denied.

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[27] PG&E included redacted material as part of its response. As directed by the Commission's Docket Office, on August 26, 2013, PG&E re-filed the material with the proper Motion for Leave to File Confidential Material Under Seal.

6. Comments on Proposed Decision

The proposed decision of ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on October 3, 2013, by PG&E and the ORA. Reply comments were filed on October 8, 2013, by PG&E and ORA.

In its opening comments, PG&E proposes that the PD be modified to eliminate language requiring "precise numerical calculations" to demonstrate that PG&E achieved LCD during a record period and to delete the authorization for the Commission to impose penalties on PG&E upon a finding that PG&E "has not worked collaboratively" with other parties during the workshop ordered to develop proposed criteria that should be used to determine what constitutes LCD compliance. We decline to make either change. First, there is no doubt that the Commission contemplated a precise numerical outcome at the time it developed its earliest guidance for ERRA compliance showings, even though the same guidance has turned out to be less definitive than the Commission may have expected at the time. Second, we decline to forgo our option to impose penalties on PG&E for the very reason that we want to retain every incentive for PG&E to work with other parties during the workshop process to explore all possible solutions to the challenge we pose, including the possible outcome of demonstrating success in some numerical fashion. In other words, the concern that PG&E expresses in its comments regarding precise numerical calculations convinces us that we should retain the option to impose penalties until we determine the success of the upcoming LCD workshop.

ORA identifies what it describes as legal and technical errors in the proposed decision and recommends modifications to correct those items.

First, ORA argues that the decision finds that PG&E failed to meet its burden of proof with regard to least-cost dispatch, and must therefore include a discussion regarding the appropriate disallowance amount derived from the finding that PG&E failed to meet its burden of proof that it achieved least-cost dispatch in the record period. We disagree with ORA's reasoning, as detailed in its comments, because while the proposed decision did make the findings cited by ORA, it also made related findings that support the result that it ultimately reached, that no disallowance is justified.

Second, ORA recommends that the Commission should open a generic proceeding with the participation of all investor owned utilities and interested parties to develop criteria that should be used to determine least-cost dispatch in future ERRA proceedings, or, in the alternative, PG&E should be ordered to distribute its proposed criteria and methodology at least ten business days before the workshop; the Energy Division should be directed to provide guidelines on how to present least-cost dispatch criteria and methodology; and ORA should have an opportunity to comment on PG&E's post-workshop report. We decline to open the generic proceeding that ORA seeks, because we believe that we will achieve a better result from the parties by keeping the instant proceeding open until this specific issue is resolved. However, we have changed the proposed decision to order PG&E to distribute its proposed criteria and methodology at least ten business days before the workshop, and to provide ORA and other interested parties with the opportunity to comment on PG&E's post-workshop report. We decline to direct the Energy Division to provide guidelines on how PG&E should present least-cost dispatch criteria and methodology—that is more properly an outcome of the workshop itself, an outcome that ORA itself will help to shape.

7. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Stephen C. Roscow is the assigned ALJ in this proceeding.

Findings of Fact

1. PG&E's application was accompanied by exhibits and testimony in support of the reasonableness of its URG fuel procurement, administration of PPAs, and LCD activities for the 2010 Record Period.

2. PG&E's showing regarding LCD is primarily based on its responses to questions in the Master Data Request providing extensive information about the "highest, lowest and average energy load days" during the record period.

3. PG&E assembled its showing on LCD based on prior years' applications but the showing assembled by PG&E was not fully consistent with our direction that the showing demonstrate successful LCD.

4. ORA identified errors in PG&E's Electronic Quarterly Reports, and PG&E is taking steps to correct those errors.

5. At the close of the Record Period, PG&E's ERRA balancing account reflected an overcollection of $116.7 million

6. ORA's audit of the entries PG&E recorded in its ERRA for the Record Period disclosed no items of a material nature requiring adjustments.

7. Information presented in PG&E's ERRA showing and ORA's testimony that would place PG&E at a competitive disadvantage if disclosed was placed under seal.

Conclusions of Law

1. PG&E's LCD showing is consistent with its showing for previous record periods.

2. The Commission made no disallowances on previous PG&E LCD showings, but PG&E's own testimony in this record period demonstrates that its showing is not fully consistent with Commission directions regarding the showing necessary to demonstrate successful LCD.

3. We should accept PG&E's LCD showing for the 2010 record period as adequate but clarify our expectations for future showings.

4. A complete showing of LCD by PG&E should include precise numerical calculations that either demonstrate that PG&E achieved LCD during the record period, or quantify the amount of overspending by PG&E.

5. PG&E and other interested parties should develop proposed criteria that should be used to determine what constitutes LCD compliance, and the resulting methodology PG&E should follow to assemble a showing to meet its burden to prove such compliance. Upon completion of this task, PG&E should submit a report on this matter in this docket for our consideration.

6. PG&E should quantify the degree to which it achieved, or did not achieve, LCD during the 2014 record period and include that showing in its ERRA compliance application in 2015.

7. PG&E should meet with ORA regarding the EQR issue identified by ORA and confirm in its next ERRA compliance filing that it has resolved this matter to ORA's satisfaction.

8. PG&E prudently managed and administered its CDWR-allocated contracts during the record period.

9. PG&E prudently managed and administered its QF and other must-take PPAs during the record period.

10. We should approve the letter agreements and amendments identified in Chapter 5 of Exhibit PG&E-1.

11. PG&E prudently managed and administered its renewable contracts during the record period.

12. PG&E prudently managed and administered its conventional generation contracts during the record period.

13. PG&E prudently managed and administered its demand response contracts during the record period.

14. PG&E's generation fuel costs were in compliance with its approved procurement plan during the record period.

15. PG&E's ERRA entries for the record period are accurate and in compliance with Commission decisions.

16. PG&E's accounting entries in the RPSCMA are in compliance with the recovery requirements adopted by the Commission and PG&E should be authorized to recover the balance in the RPSCMA in ERRA as part of PG&E's Annual Electric True-Up process. The actual amount collected should be adjusted for any RPSCMA balances whose recovery was previously authorized in D.11-07-039, in PG&E's 2009 ERRA compliance proceeding.

17. PG&E's Master Data Request responses as well as responses to certain additional ORA data requests, should be marked as Exhibit PG&E-12 and Exhibit PG&E-12-C and received into evidence in this proceeding.

18. The May 15, 2013 "Response of Pacific Gas and Electric Company To Administrative Law Judge's Ruling Amending Scope, Setting Aside Submission And Requesting Additional Information" should be marked as Exhibit PG&E-13 and received into evidence in this proceeding.

19. PG&E's May 15, 2013 motion to submit additional evidence into the record should be denied.

20. Exhibits PG&E-1-C, PG&E-3-C, and PG&E-12-C and DRA-1-C and DRA-2-C should be granted confidential treatment. Pursuant to D.06-06-066, this information should remain under seal for a period of three years after the date of this order unless otherwise modified by the Commission, the assigned Commissioner, or the assigned ALJ.

O R D E R

IT IS ORDERED that:

1. Within 90 days of this decision the Commission's Energy Division shall facilitate a workshop where Pacific Gas and Electric Company and other interested parties shall develop proposed criteria that should be used to determine what constitutes least-cost dispatch compliance, and the resulting methodology Pacific Gas and Electric Company should follow to assemble a showing to meet its burden to prove such compliance. Pacific Gas and Electric Company shall distribute its proposed criteria to all other parties at least ten business days prior to the workshop.

2. Within 30 days following the workshop, Pacific Gas and Electric Company shall prepare a report summarizing the outcome, and file and serve the report in this docket for our consideration. Other parties may file and serve comments on the workshop report within 30 days of the date of its service.

3. Pacific Gas and Electric Company shall quantify the degree to which it achieved, or did not achieve, least cost dispatch during the 2014 record period and include that showing in its Energy Resource Recovery Account compliance application in 2015.

4. Pacific Gas and Electric Company shall confirm, in the next Energy Resource Recovery Account compliance application that it files after the date of

this decision, that it has met with the Office of Ratepayer Advocates regarding the Electronic Quarterly Reports issue identified by the Office of Ratepayer Advocates and resolved this matter to the satisfaction of the Office of Ratepayer Advocates.

5. Pacific Gas and Electric Company is authorized to recover the balance in the Renewables Portfolio Standard Cost Memorandum Account in the Energy Resource Recovery Account as part of its Annual Electric True-Up process.

6. Pacific Gas and Electric Company's Master Data Request responses as well as responses to certain additional the Office of Ratepayer Advocates data requests, identified as Exhibit PG&E-12, and Exhibit PG&E-12-C are received into evidence in this proceeding.

7. The May 15, 2013 "Response of Pacific Gas and Electric Company to Administrative Law Judge's Ruling Amending Scope, Setting Aside Submission and Requesting Additional Information," identified as Exhibit PG&E-13, is received into evidence in this proceeding.

8. Pacific Gas and Electric Company's May 15, 2013 motion to submit additional evidence into the record is denied.

9. All information placed under seal in this proceeding shall remain sealed for a period of three years from the effective date of this order. During that period, the confidential Exhibits shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge, or the Administrative Law Judge then designated as Law and Motion Judge. If Pacific Gas and Electric Company believes that further protection of the information kept under seal is needed, it may file a motion stating the justification for further withholding of the information from public inspection, or

for such other relief as the Commission's rules may then provide. This motion shall be filed no later than one month before the expiration date of the three year period adopted in this order.

10. Application 11-02-011 shall remain open.

This order is effective today.

Dated _____, at Redding, California.